

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**JUL 28 2014**

JAMES W. McCORMACK, CLERK  
By: Sau  
DEP CLERK  
**PLAINTIFF**

**JANICE HASS**

**v.**

**CASE NO. 4:14-cv-00442-KGB**

**PORTFOLIO RECOVERY ASSOCIATES, L.L.C.  
A Delaware Corporation**

**DEFENDANT**

**COMPLAINT**

COMES the Plaintiff, Janice Hass (Hass) by her attorneys, and for her Complaint against

Portfolio Recovery Associates, L.L.C. (Portfolio), states: This case assigned to District Judge Baker  
and to Magistrate Judge Deere

**INTRODUCTION**

1. The United States Congress has found abundant evidence of the use of abusive, deceptive and unfair debt collection practices by many debt collectors and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et. seq. to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

2. The Arkansas Legislature has adopted a regulatory structure to insure compliance with the debt collection laws. The Arkansas Code has established a licensing procedure whereby debt collectors are required to be licensed and regulated by the Arkansas State Board of Collection Agencies. *A.C.A. §17-24-301.*

3. Hass, by and through her attorneys, brings this action to challenge the actions of

Portfolio, debt collectors, with regard to attempts by Portfolio to unlawfully and abusively collect a debt allegedly owed by Hass and this conduct caused damages to Hass.

### **JURISDICTION AND VENUE**

4. Jurisdiction of this Court arises pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k(d).

5. This action arises out of Portfolio's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.

6. The actions alleged in this Complaint occurred within the State of Arkansas.

7. Venue is proper pursuant to 28 U.S.C. §1391.

### **PARTIES**

8. Hass is a natural person who resides in rural Saline County Arkansas and is obligated or allegedly obligated to pay a debt and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

9. Portfolio is registered with the Arkansas Secretary of State and is being served via its registered agent:

Corporation Service Company  
300 Spring Building, Suite 900  
300 S. Spring Street  
Little Rock, AR 72201

10. Hass alleges that Portfolio are persons who use an instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and are "debt collectors" as that term is defined in 15 U.S.C. §1692a(6).

### **FACTUAL ALLEGATIONS**

11. On September 30, 2013, Portfolio filed a lawsuit against Hass in the District Court of Pulaski County, Arkansas in an attempt to collect a delinquent debt. **Exhibit 1.** Hass did not answer the Complaint and a Default Judgment was entered against her on January 10, 2014. **Exhibit 2.** On April 17, 2014, Hass received a notice of garnishment from Bank of America regarding the Portfolio judgment. **Exhibit 3.**

At the time the lawsuit was filed, Hass was a resident of Saline County, Arkansas. The Pulaski County filing was in violation of **15 U.S.C. §1692i** which requires that the debt collector bring any legal action on a debt against any consumer in the judicial district in which the consumer resided at the commencement of the action.

Although Hass' address is a Little Rock address, the residence is located in a rural section of Saline County according to the Saline County assessor's office. **Exhibit 4.** The lawsuit was served via process server at her residence in Saline County. Finally, a simple Google search shows Hass' address located in Saline County.

The Pulaski County Complaint requests a principle amount of \$685.93 plus pre-judgment interest "as set out in Plaintiff's Affidavit." The attached affidavit makes no mention of pre-judgment interest nor does the affidavit state a rate of interest.

Further, the Pulaski County Complaint filed by Portfolio did not contain the account agreement upon which it is based its lawsuit in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure; therefore, there is no contractual basis for pre-judgment interest as claimed in the Complaint.

By not attaching the contract upon which it sued in violation of Rule 10(d), Portfolio made a false representation of the character, amount, or legal status of the debt in violation of **15**

**U.S.C. §1692e(2)(A).** The lawsuit demanded pre-judgment interest not evidenced by any contractual obligation and not authorized by the contract in violation of **15 U.S.C. §1692f(1).** Portfolio has violated **15 U.S.C. §1692e(10)** by making false representations and engaging in deceptive means in attempting to collect the debt by its inability to document any agreement between Hass and any creditor in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure.

The Pulaski County Complaint states that the original creditor is GE Capital Retail Bank. However, according to the attached affidavit, the original creditor is General Electric Capital Corp/Paypal. Portfolio, according to its own affidavit, does not own a debt from GE Capital Retail Bank, therefore, it had no standing to sue on a debt it did not own in violation of **15 U.S.C. §1692f.** By its own affidavit, Portfolio admits that the debt is not owed to GE Capital Retail Bank; therefore, Portfolio is attempting to collect a debt not owed in violation of **15 U.S.C. §1692e(2) and 15 U.S.C §1692e(10).**

Arkansas Code Annotated §17-24-301 states that, unless licensed by the Arkansas State Board of Collection Agencies, it is unlawful to engage in the collection of delinquent accounts, bills, or other forms of indebtedness; or purchase and attempt to collect delinquent accounts or bills. Portfolio is not licensed by the Arkansas State Board of Collection Agencies and is, therefore, taking action that cannot legally be taken in violation of **15 U.S.C §1692e(5).**

12. Portfolio's conduct has violated the Fair Debt Collection Practices Act under the "unsophisticated debtor" standard and for which strict liability applies pursuant to **15 U.S.C. §1692.**

13. Portfolio's conduct violates the Fair Debt Collection Practices Act for which

statutory damages apply pursuant to **15 U.S.C. §1692k(a)(2)(A)**.

14. Portfolio's conduct violates the Fair Debt Collection Practices Act for which actual damages apply pursuant to **15 U.S.C. §1692k(a)(1)**.

**DAMAGES**

15. Hass is entitled to the following damages:

- i. Statutory damages in the amount of \$1,000.00.
- ii. Actual damages for mental distress and garnishment fees.
- iii. Attorney fees and costs.

**PRAYER FOR RELIEF**

16. Hass prays the Court enter judgment against Portfolio for her damages enumerated above and for all other relief to which she may be entitled.

**JURY DEMAND**

17. Hass demands a trial by jury.

Respectfully submitted,  
**COOK LAW FIRM, P.A.**  
8114 Cantrell Rd, Ste 100  
Little Rock, AR 72227  
Telephone: (501) 255-1500  
Facsimile: (501) 255-1116

\_\_\_\_\_  
J.R. Andrews, AR Bar No. 92041

**CENTER FOR ARKANSAS LEGAL SERVICES**  
1300 W. 6<sup>th</sup> Street  
Little Rock, AR 72201  
Telephone: (501) 376-3423  
Facsimile: (501) 376-3664

  
Cecille Dean, AR Bar No. 2009246

IN THE DISTRICT COURT OF PULASKI COUNTY, ARKANSAS

PORTFOLIO RECOVERY ASSOCIATES, LLC

v.

CASE NO. CV-13-2508

JANICE HASS

PLAINTIFF

DEFENDANT

COMPLAINT

Comes the Plaintiff and for its cause of action against the Defendant, states:

1. That the Plaintiff is a corporation authorized to bring this action under Ark. Code Ann. § 4-27-1501.

2. That the Defendant is a resident of Pulaski County, Arkansas.

3. Jurisdiction and venue are proper in this Court.

4. That Defendant purchased certain items with extensions of credit obtained on his/her GE CAPITAL RETAIL BANK account. This account was purchased by, and assigned to the Plaintiff for good and valuable consideration.

5. That the amount past due on said account, which has not been paid, and has been owed for a period of time is as follows, principle amount, \$685.93, plus pre-judgment interest as set out in Plaintiff's Affidavit which is attached hereto and incorporated herein by reference.

6. That demand had been made for the payment of same, yet the balance remains unpaid.

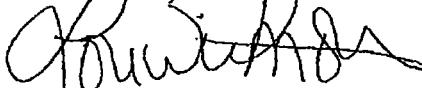
WHEREFORE, Plaintiff prays for Judgment against Defendant in the amount of \$ 685.93, for all costs herein paid and expended, for pre-judgment and post-judgment interest at the contract rate, reasonable attorney's fees, and for all other proper relief.

Allen & Withrow

Attorneys at Law

P.O. Box 17248

Little Rock, AR 72222



Lori Withrow (98069)

AFFIDAVIT

State of Virginia  
City of Norfolk ss.

Bridgette Wiggins

Bridgette Wiggins

I, the undersigned, \_\_\_\_\_, custodian of records, for Portfolio Recovery Associates, LLC hereby depose, affirm and state as follows:

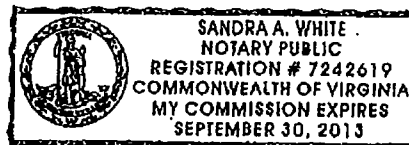
1. I am competent to testify to the matters contained herein.
2. I am an authorized employee of Portfolio Recovery Associates, LLC, ("Account Assignee") which is doing business at Riverside Commerce Center, 120 Corporate Boulevard, Norfolk, Virginia, and I am authorized to make the statements, representations and averments herein, and do so based upon a review of the business records of the Account Assignee and those records transferred to Account Assignee from **GENERAL ELECTRIC CAPITAL CORP/PAYPAL** ("Account Seller"), which have become a part of and have integrated into Account Assignee's business records, in the ordinary course of business.
3. According to the business records, which are maintained in the ordinary course of business, the account, and all proceeds of the account are now owned by the Account Assignee, all of the Account Seller's interest in such account having been sold, assigned and transferred by the Account Seller on 5/31/2012. Further, the Account Assignee has been assigned all of the Account Seller's power and authority to do and perform all acts necessary for the settlement, satisfaction, compromise, collection or adjustment of said account, and the Account Seller has retained no further interest in said account or the proceeds thereof, for any purpose whatsoever.
4. According to the records transferred to the Account Assignee from Account Seller, and maintained in the ordinary course of business by the Account Assignee, there was due and payable from **JANICE HASS** ("Debtor and Co-Debtor") to the Account Seller the sum of \$ 685.93 with the respect to account number ending in \_\_\_\_\_ is of the date of 7/25/2011 with there being no known un-credited payments, counterclaims or offsets against the said debt as of the date of the sale.
5. According to the account records of said Account Assignee, after all known payments, counterclaims, and/or setoffs occurring subsequent to the date of sale, Account Assignee claims the sum of \$ 685.93 as due and owing as of the date of this affidavit.
6. Plaintiff believes that the defendant is not a minor or an incompetent individual, and declares that the Defendant is not on active military service of the United States.

Portfolio Recovery Associates, LLC

By: Bridgette Wiggins, custodian of records

Subscribed and sworn to before me on JUL 17 2013

Sandra A. White  
Notary Public



This communication is from a debt collector and is an attempt to collect a debt.  
Any information obtained will be used for that purpose.

05/15/2014 10:23 5013405099

PC DISTRICT COURT

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## IN THE DISTRICT COURT OF PULASKI COUNTY, ARKANSAS

PORTFOLIO RECOVERY ASSOCIATES, LLC 14 JAN 10 AM 10:26 PLAINTIFF

V.

CASE NO. CV-13-2508 DISTRICT COURT  
PULASKI COUNTY ARKANSAS

JANICE HASS

DEFENDANT

DEFAULT JUDGMENT

Now on this day this cause comes on to be heard, but the Defendant comes not, and this cause was submitted to the Court upon the Complaint, with the Exhibits thereto and filed herein, the summons issued herein against the Defendant and the return made to this Court thereon showing proper service for the time and in the manner as required by law, from all of which and other matters, proof and things before the Court, the Court doth find:

That the Defendant has been duly served with the summons for more than thirty (30) days allowed by law, that Defendant has failed to file a timely Answer within the thirty (30) days allowed by law, or to appear and defend, and the Defendant is indebted to the Plaintiff, as assignee of CIE CAPITAL RETAIL BANK, in the amount of \$685.93, plus pre-placement interest in the amount of \$.00 to the date of 10/11/12, plus pre-judgment interest at the rate of ten percent (10%) per annum from the date received of 10/11/12 until Judgment is filed and post-judgment interest at the rate of ten percent (10%) per annum from the date Judgment is filed until paid in full, and for all its costs herein expended to date in the amount of \$120.00, plus any additional costs incurred during the enforcement of this Judgment.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED and ADJUDGED that Plaintiff have of and recover from the Defendant the sum of \$685.93, plus pre-placement interest in the amount of \$.00 to the date of 10/11/12, plus pre-judgment interest at the rate of ten percent (10%) per annum from the date received of 10/11/12 until Judgment is filed and post-judgment interest at the rate of ten percent (10%) per annum from the date Judgment is filed until paid in full, for all its costs herein paid and expended to date in the amount of \$120.00, plus any additional costs incurred during the enforcement of this Judgment, for all of which execution may issue.

Pursuant to Ark. Code. Ann. § 16-66-221, as a resident of this state who has final Judgment of a court of record entered against him, he shall prepare a schedule, verified by affidavit, of all property,



05/15/2014 10:23

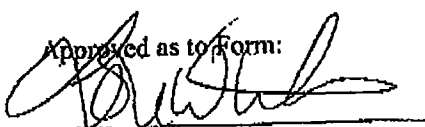
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PC DISTRICT COURT

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both real and personal, including moneys, bank accounts, right, credits, and choses in action held by himself or others for him and specify the particular property which he claims as exempt under the provisions of the law. The schedule shall be filed with the clerk of this court within forty-five (45) days of entry of this judgment.

IT IS SO ORDERED.

  
\_\_\_\_\_  
JudgeDate: 11/10/14Approved as to Form:  
  
\_\_\_\_\_

Lori Withrow (98069)  
Attorney for Plaintiff  
P.O. Box 17248  
Little Rock, AR 72222  
(501) 227-2000

5701 HORATIO ST UNITED STATES OF AMERICA  
UTICA 13502-1024

April 17, 2014

JANICE M HASS  
18530 WINBURY CV  
LITTLE ROCK, AR 72206-9441

RE: Reference # U041714000787  
Case: Janice Hass  
Case No: CV132508

Dear Valued Customer:

We received a(n) Garnishment for \$922.82 from ALLEN & WITHROW which required us by law to hold your account for up to the full amount of the debt, not to exceed the balance due. Additional funds deposited to the account(s) may be subjected to this hold until we are directed by court order to release the funds.

ACCOUNT #	AMOUNT ATTACHED	NON-REFUNDABLE PROCESSING FEE	BOX#
*****1091	\$0.00	\$100.00	

We are holding the above funds to satisfy this Legal Request pending further instructions.

In addition to the non-refundable processing fee the Bank charges an attorney's fee of \$47.50.

The law provides you with certain rights and possible defenses to the action taken by your creditor. You should immediately consult with your attorney regarding your legal rights and obligations in this matter.

If you have any questions regarding this Garnishment, believe it should not apply to your account(s), or think the order contains an error, please contact the ALLEN & WITHROW at 501-227-2000. We are unable to return the funds to you unless we receive a release from that party or a court order authorizing the release of the funds.

Should you have questions concerning your account, please contact our Customer Service Center at one of the numbers listed below. If you need to forward any additional correspondence to us regarding this matter, please direct it to the address noted above. When contacting the Bank regarding this Garnishment please use the Reference # U041714000787.

#### Legal Order Processing

Telephone Banking:	Spanish Telephone Banking:	For Speech or Hearing Impaired TDD Required:
1.800.432.1000	1.800.688.6086	1.800.288.4408



May 13 14 06:35p

Dorothy Bailey

**2013 Tax Statement**

Joy Ballard  
Saline County Collector  
215 N. Main St, Suite 3  
Benton, AR 72015  
501.303.5620

*Att: Cecille DOAN*  
**Saline County**

2013 taxes payable from March 1, 2014 to  
Oct. 15, 2014 & delinquent Oct. 16, 2014  
For a receipt, please provide an email address

Details on back of statement.  
For a paper receipt, enclose a  
self-addressed stamped  
envelope.  
Change of address "on back."  
Pay online with "3% fee" at  
[www.salinecollector.ar.gov](http://www.salinecollector.ar.gov)

TP #: 9254403

30

30781

Provide your phone # \_\_\_\_\_

R & D Properties Llp  
5514 Springhill Rd  
Alexander, AR 72002-8421

Joy Ballard  
Saline County Collector  
215 N Main St Ste 3  
Benton, AR 72015-3763

Please detach and return the above portion with your payment

Page 1 of 1

Parcel Number	Owner's Name	School District	Valuation	Millage	Description of Tax	Tax Amount	Total Tax Due
001-00149-000	R & D PROPERTIES LLLP	370	17710	41.90	Real Estate	742.05	
	16530 WINBURY CV				East End Fire Distri	66.00	
	06-02S-12W 1.26 Acres PT FRL N/2 NENW						\$807.05
	2004-66226						

Total Mandatory \$807.05

County Animal Control \$5.00

Weather Siren Improvement \$5.00

Total with Voluntary \$817.05

TAXING UNIT	Tax Dollars	Millage
Grant SD	\$570.26	0.03220
County General	\$88.65	0.00500
County Road	\$53.13	0.00300
County Library	\$30.11	0.00170
Other Tax	\$65.00	0.00000
Total	\$807.05	

2013 Tax Statement  
\*\*\* CONTINUED \*\*\*

4/15/14 09:02:20 10.1.1

P.1/1

TO: 3763664

5016881100

MAY-14-2014 09:57 FROM: B&amp;T PALLET, INC.